



State Procurement Manual

Department of Administration, State Bureau of Procurement

Number
PRO-305

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SCOPE: The purpose of this policy is to establish the authority, basis and procedures for determining official sealed and simplified bid awards under various circumstances.

POLICY: Awarding contracts and rejecting bids are public actions and the procuring agencies performing these functions are guided by the course of action that best promotes the public interest.

It is the duty and authority of the procuring agency to exercise good judgment, due diligence, and to honestly and fairly determine the lowest responsible bidder(s).

The lowest responsible bidder is the person or firm submitting the competitive bid with the lowest price that meets the specifications of the solicitation. Bid awards will be made on this basis except as provided herein.

Wherever such action is appropriate, the procuring agency will award contracts for materials, supplies or equipment based on life cycle cost estimates. See PRO-208, Life Cycle Costing.

Any and all bids may be rejected. When the award is made to someone other than the lowest bidder, and/or when any bid is rejected, a complete written record of the full reason(s) for such actions will be created and retained in the bid file. See PRO-105, Procurement Record Retention and Access.

Tied bids exist when the total costs of two or more responses to a bid are identical. Procuring agencies will follow the procedures outlined herein to break a bid tie. If an indication of price fixing exists in any tied bid situation, agencies will consult PRO-602, Non-Collusion and Disclosure of Conflicts of Interest and may consult the State Bureau of Procurement (Bureau), before proceeding with an award.

PROCEDURE: I. Determination of Lowest Responsible Bidder



Legal Authority

Wis. Stats. 16.72(4)(a); 16.75(1)(a); 16.75(1m); 16.75(3m);
16.754(2)
Wis. Adm. Code Chapter Adm 6.01; 8.03
Agencies Affected: All, unless otherwise noted

Authorized:
Sara Redford, Director
State Bureau of Procurement



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- A. All the following factors may be considered, if contemplated by the solicitation:
- 1) Financial ability to provide the services required or to complete the contract;
 - 2) Skill, judgment, experience and resources to complete the contract;
 - 3) Necessary facilities, staff, personnel, and equipment to complete the contract;
 - 4) Demonstrated ability to satisfactorily perform the work or provide the materials in a prompt, conscientious manner;
 - 5) Demonstrated ability to comply in situations where the award is contingent on special considerations subject to the nature of the services or contract required; and
 - 6) Any other factor determined to be relevant in assessing the bidder's ability to supply as required.
- B. The procuring agency will review bids received by the due date and time of the solicitation to ensure it is only accepting bids submitted in accordance with the specifications of the solicitation.

A responsive bid is one that complies with all required specifications, containing no material omissions that would fundamentally impact the bid's completeness. The procuring agency may make certain clarifications as allowed by applicable policy to create a fair and equitable comparison of bids received.



Legal Authority

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- C. All responsive, responsible bidders will then have bid pricing reviewed. The prescribed method of award will be followed. In making awards, low bid is determined by the price offered on the quantity actually being contracted for.
- D. If no bidder meets every required specification, the procuring agency may continue its review of bids that most closely meet the remaining required specifications.
- E. Where applicable, if a certified minority business enterprise or disabled veteran-owned business has submitted a qualified responsible bid that is no more than 5% higher than the apparent lowest responsible bid, the award may be made to such bidder in accordance with PRO-606, Supplier Diversity Policy and Reporting.
- F. If the apparent low bidder is not a Wisconsin business, the procuring agency will ensure the award should not otherwise be impacted by reciprocity law and policy as prescribed in PRO-603, Reciprocity Law and Handling State Preferences.
- G. The basis for awarding contracts to certified work centers is defined in PRO-509, Sourcing with Work Centers.
- H. When the lowest responsible bid price is deemed to be higher than a fair price, a lower price may be negotiated. Bid pricing and additional provisions or modifications may be negotiated only with the lowest responsible bidder(s) so long as such changes would not have provided a significant competitive advantage had they been made at the time the bids were taken.

II. Single Bids



Legal Authority

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When bids have been solicited and only one bid is received, the procuring agency:

- A. Determines if the probability of receiving more than one bid existed at the time of solicitation; if so,
- B. Determines whether restrictive specifications or conditions caused the sole response, if not,
- C. Determines, based on cost comparisons or analysis, that the price bid is fair; if so,
- D. Establishes that re-solicitation will probably not elicit further bids, and,
- E. Makes the award based on the single bid.

If the office determines that a single bid was the result of restrictive specifications or conditions, the specifications or conditions will be re-written, and the bid resolicited. See PRO-202, Specifications and Standards.

III. Tied Bids

The following options for breaking tied bids will be followed in the order presented, as applicable to the bid in question:

- A. Cost totals can be carried out to two or more decimal points to break a tie.
- B. In determination of award, discounts for early payment and other factors contributing to greater economic benefit (e.g. volume discounts, etc.) may be factored into the basis for



Legal Authority

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award. See PRO-407, Pricing and Discounts and PRO-409, Prompt Payment Policy.

- C. Award is made to the bidder whose materials are manufactured to the greatest extent in the United States as governed by PRO-605, American-made Materials Policy.

When making an award that involves a member country under the Government Procurement Agreement, the agency will follow PRO-604, World Trade Organization Government Procurement Agreement.

- D. If an award cannot be made using the provisions of III, A-C., the procuring agency will determine the award using a witnessed and documented drawing of names or its equivalent, such as a coin toss, after obtaining approval from the agency's chief purchasing official to do so. Documentation of the procedure used to break a bid tie must be retained in the procurement file.



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